

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPH PERONACE	:	CIVIL ACTION - LAW
v.	:	NO. 23-3943-KSM
CITY OF PHILADELPHIA	:	

PLAINTIFF'S MOTION TO COMPEL DEPOSITIONS

1. The instant matter arises out of events surrounding the incarceration of the Plaintiff, Joseph Peronace, which are set forth at length in the Plaintiff's Amended Complaint. A copy of the Amended Complaint is attached hereto and marked as Exhibit "A."

2. On November 3, 2023, following a preliminary pretrial conference, a Scheduling Order was issued under which discovery was to be completed by February 2, 2024 and where the parties set aside dates for depositions which were to be identified in a letter to the Court. A copy of the November 3, 2023 Scheduling Order is attached hereto and marked as Exhibit "B."

3. Plaintiff's counsel contacted defense counsel and provided a list of 15 possible dates for depositions, which spanned from the date of the Plaintiff's email through the end of 2023. Defense counsel responded that November 28, 2023, December 12, 2023 and December 15, 2023 were all acceptable dates to be held for depositions in the instant matter. A copy of this email chain is attached hereto and marked as Exhibit "C."

4. On November 8, 2023, Plaintiff's counsel provided a letter to Chambers identifying these dates. A copy of this letter is attached hereto and marked as Exhibit "D."

5. On November 9, 2023, Plaintiff's counsel served Notices of Deposition on defense counsel, requesting depositions on November 28, 2023 to begin at 10:00 a.m., as follows:

- “Defendant’s Director of CFCF/Warden or Acting Warden, who is responsible for the day-to-day administration of CFCF, oversight and of current policies and procedures, implementation and enforcement of applicable policies and procedures,” and
- “Defendant’s Director of Medical Services, who is responsible for setting protocols, use of appropriate protocols, monitor care, standards for inmate medical care, oversee medical care, ensure positions filled, quality control for the medical care provided to inmates”

A copy of the email dated November 9, 2023 and the attached Notices of Deposition are attached hereto and marked as Exhibit “E.”

6. On November 27, 2023, Plaintiff’s counsel forwarded the Zoom log-in credentials to defense counsel. A copy of the email dated November 27, 2023 is attached hereto as Exhibit “F.”

7. On November 28, 2023, at approximately 9:45 a.m., 15 minutes before the time that the depositions were scheduled to begin, defense counsel called Plaintiff’s counsel by telephone, canceling the deposition stating that she did not have the deponents available.

8. Defense counsel advised that she believed Plaintiff’s Notices of Deposition to be insufficient despite clearly setting forth the duties of the requested individuals and further stating that Plaintiff is not permitted to identify specific witnesses.

9. Defense counsel did not object to the form of the Plaintiff’s Notice of Deposition at any time prior to the scheduled beginning time of the depositions or communicate that the Defendant’s agents would not be produced.

10. The deponents were clearly identified in the Notices of Deposition but were not produced at the time designated on the Notices of Deposition.

11. It is the Plaintiff’s burden to adduce evidence during the course of discovery to support his case. The Plaintiff has properly noticed the depositions of the agents of the Defendant that are necessary to meet such burden but the Defendant has proven unwilling to comply.

12. The parties have held a telephone conference in regard to this discovery dispute but have been unable to reach a resolution.

13. The Plaintiff's ability to effectively conduct discovery will be severely prejudiced if the depositions of the Defendant's employees are not permitted to be taken.

14. The Plaintiff is entitled to the depositions of the individuals identified pursuant to F.R.C.P. Rule 30.

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court enter the Order attached hereto.

ROVNER, ALLEN, ROVNER,
ZIMMERMAN, SIGMAN AND SCHMIDT

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